

The JS 44 civil cover sheet and the information provided herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

STEVEN GARY

(b) County of Residence of First Listed Plaintiff PHILADELPHIA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

CHARLES W. CAMPBELL
1 EAST AIRY STREET
NORRISTOWN, PA 19401
610-272-2400

DEFENDANTS

SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
AND JOHN DOE, SEPTA MOTORMAN

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. SECTION 12101

Brief description of cause:

AMERICANS WITH DISABILITIES ACT

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/21/2015

SIGNATURE OF ATTORNEY OF RECORD

AUG 21 2015

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

15 4783

Address of Plaintiff: 317 E. SHEDAKER STREET, PHILADELPHIA, PA 19144

Address of Defendant: 1234 MARKET STREET, PHILADELPHIA, PA 19107

Place of Accident, Incident or Transaction: HARBISON AVENUE, PHILADELPHIA, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) AMERICANS WITH DISABILITIES ACT

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, CHARLES W. CAMPBELL, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 8/21/15

Attorney-at-Law

37206

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/21/15

Attorney-at-Law

37206

Attorney I.D.#

AUG 21 2015

RK

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**CASE MANAGEMENT TRACK DESIGNATION FORM**

STEVEN GARY

v.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY, et al.

CIVIL ACTION

15

4783

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

Date

610-272-2400

Telephone

CHARLES W. CAMPBELL

Attorney-at-law

610-991-2242

FAX Number**Attorney for** PLAINTIFF

CWCAMPBELL3@GMAIL.COM

E-Mail Address

AUG 21 2015

#400
RK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEVEN GARY
317 East Shedaker Street
Philadelphia, Pennsylvania 19144

v.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY
1234 Market Street
Philadelphia, Pennsylvania 19107

and

JOHN DOE, SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY MOTORMAN
1234 Market Street
Philadelphia, Pennsylvania 19107

2015 AUG 21 P 11:39

: NO.

: USDC-EDPA

: JURY TRIAL DEMANDED

15 4783

COMPLAINT

1. This is an action for damages against defendants for their discriminatory acts against plaintiff, a disabled passenger on a public bus operated by defendants, in violation of the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq.* (“ADA”); Section 504 of the Vocational Rehabilitation Act (“Section 504”), 29 U.S.C. § 794; and parallel Pennsylvania law.
2. Plaintiff Steven Gary is an adult individual residing at the above-captioned address.
3. Defendant Southeastern Pennsylvania Transportation Authority (“SEPTA”) is a regional transportation authority and an agency of the Commonwealth of Pennsylvania, which operates public buses in the southeastern part of Pennsylvania.

4. Defendant John Doe, Southeastern Pennsylvania Transportation Authority Motorman, is a motorman in the employ of defendant SEPTA, who was operating a SEPTA Route 26 bus on Harbison Avenue near its intersection with Roosevelt Boulevard on Thursday, August 22, 2013 at about 3:45 P.M. His name is unknown, and plaintiff will seek leave to amend this complaint by providing his name after this information is disclosed by defendant SEPTA.
5. At all times pertinent hereto, plaintiff was a person with disability and required the use of a motorized scooter due to a disease and/or injury in his right foot and leg.
6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. § 12133, and 29 U.S.C. § 794a. Your Honorable Court has pendent claim jurisdiction over the state law claims.
7. Venue is proper within this District pursuant to 28 U.S.C. § 1391.
8. Defendants are “public entities” within the meaning of 42 U.S.C. § 12131(1)(B) and 28 C.F.R. § 35.104.
- 9.. Defendants receive federal financial assistance within the meaning of 29 U.S.C. §794 and its implementing regulations.
10. On the date, time and place referred to in paragraph 4 above, plaintiff was a passenger on a Route 26 SEPTA bus, which was being operated by defendant John Doe, SEPTA Motorman.
11. Plaintiff boarded the bus on his motorized scooter, and showed his Medicare card to defendant Doe, which plaintiff believed entitled him to a discount.
12. Defendant Doe then demanded that plaintiff get up off his scooter and walk to the

farebox to pay his fare, stating to plaintiff and in the presence of other bus passengers, "Get up and give me some money. You can walk."

13. This statement by Doe caused plaintiff such embarrassment and emotional upset that he requested to be let off the bus.
14. Defendant Doe persisted in announcing to other bus passengers that plaintiff could walk.
15. Plaintiff then drove his scooter onto the bus lift to exit the bus, but one of the wheels to the scooter was hanging over the side of the ramp. Plaintiff told defendant Doe that he (plaintiff) might fall, to which Doe responded, "Go ahead and fall, you would just get up and walk anyway."
16. As the bus lift was lowered, plaintiff's scooter did in fact tip when it reached the ground, causing damage to the scooter and bodily injury to plaintiff.

FIRST CLAIM FOR RELIEF

VIOLATION OF AMERICANS WITH DISABILITIES ACT

17. The previous paragraphs are incorporated herein by reference.
18. Title II of the ADA prohibits public entities from denying, on the basis of disability, the benefits of the services, programs, or activities of the public entity, and from subjecting persons with disabilities to discrimination. 42 U.S.C. § 12131 *et seq.*; 28 C.F.R. Part 35.
19. Defendants' conduct as aforesaid violated the ADA.
20. As a result of defendants' violations, plaintiff was prevented from riding the bus because he was unable to walk to the farebox to pay his fare, as demanded by defendant Doe.

20. As a result of defendants' violations, defendant suffered extreme emotional distress, embarrassment, humiliation and emotional upset.
21. As a further result of the aforesaid, plaintiff sustained bodily injury, with pain, suffering, inconvenience and loss of life's pleasures.
22. As a further result of the aforesaid, plaintiff sustained financial loss resulting from damage to his scooter.

WHEREFORE, plaintiff demands judgment for compensatory damages, statutory damages, punitive damages and attorney's fees.

SECOND CLAIM FOR RELIEF - SECTION 504 OF THE REHABILITATION ACT

23. The previous paragraphs are incorporated herein by reference.
24. Defendants violated the Rehabilitation Act by denying plaintiff, a user of a mobility device, with equal access to its public transportation system, as more fully set forth above.
25. As a result of defendants' violations, plaintiff suffered injuries and damages as set forth above.

WHEREFORE, plaintiff demands judgment for compensatory damages, statutory damages, punitive damages and attorney's fees.

THIRD CLAIM FOR RELIEF - PARALLEL STATE LAW CLAIM

26. The previous paragraphs are incorporated herein by reference.
27. The previous paragraphs are incorporated herein by reference.
28. In discriminating against plaintiff based upon plaintiff's disability, and in denying plaintiff equal access to public bus transportation, and in committing the acts set forth above, defendants caused plaintiff damage, in violation of Pennsylvania law,

including the Human Relations Act, 43 P.S. §§ 951-963.

WHEREFORE, plaintiff demands judgment for compensatory damages, together with other authorized relief.



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